



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,820	03/22/2004	Jon Michel Greenwood	P1920US00	1504
24333	7590	10/14/2008		
GATEWAY, INC.			EXAMINER	
ATTN: Patent Attorney			GAUTHIER, GERALD	
610 GATEWAY DRIVE				
MAIL DROP Y-04			ART UNIT	
N. SIOUX CITY, SD 57049			PAPER NUMBER	
			2614	
			MAIL DATE	
			DELIVERY MODE	
			10/14/2008	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/805,820

Applicant(s)

GREENWOOD, JON MICHEL

Examiner

Gerald Gauthier

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-12,14-28 and 30-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-12,14-28 and 30-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. **Claim 25** is objected to because of the following informalities: Line 9 stated "the group group" it should be "the group". Correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. **Claims 1 and 15** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. "Initiating a telephone session and the limitation "receiving a personal identification number". It is not clear where the system received the PIN. Please clarify.

Claims 2-, 3, 5-10 and 16-24 are rejected from being dependent of claims 1 and 15 above.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 30-35** are rejected under 35 U.S.C. 102(e) as being anticipated by Aggarwal et al. (US 6,260,148 B1).

Regarding **claim 30**, Aggarwal discloses a method for maintaining an IM client status [column 1, lines 19-22], the method comprising:

detecting a change in proximity of a user of an IM client [The buddy lists ping each other at short intervals to see who's online, column 2, lines 18-26]; and

updating an IM client status in accordance with the change in proximity [If the ping is successful, the client reports that your buddy is online and ready to chat, column 2, lines 18-26];

wherein the IM client status is selected from the group comprising on-line and off-line [Each entry 142 is associated with an online status property 144, the value of which indicates whether the correspondent is online. For instance, in FIG. 8, client entries 142 of contact list 140A designating clients C and F have an online status

Art Unit: 2614

property value 144 indicating that the clients are online (as indicated by the "x"), column 13, line 65 to column 14, line 14].

Regarding **claim 31**, Aggarwal teaches a method, wherein detecting the change in proximity includes detecting that the user has come within a range of a proximity detector [column 14, lines 3-14].

Regarding **claim 32**, Aggarwal teaches a method, wherein detecting the change in proximity includes detecting that the user has exited a range of a proximity detector [column 14, lines 15-30].

Regarding **claim 33**, Aggarwal teaches a method, wherein detecting the change in proximity includes determining a lack of activity on an input device [column 14, lines 31-59].

Regarding **claim 34**, Aggarwal teaches a method, wherein determining a lack of activity includes determining a lack of activity for a predetermined timeout period [column 14, lines 31-59].

Regarding **claim 35**, Aggarwal teaches a method, wherein detecting the change in proximity includes determining the resumption of activity on an input device [column 14, lines 60-67].

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claims 25-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Aggarwal in view of Maurille (US 6,484,196 B1).

Regarding **claim 25**, Aggarwal discloses all the limitations of claim 25 as stated in claim 35's rejection above but fail to disclose wherein the IM client is selected from a group.

However, Maurille teaches wherein the IM client is selected from the group comprising AOL Instant Messenger, Yahoo Instant Messaging, ICQ, and MSN instant messaging [An example of such a system is America On Line's "Instant Messages" feature, which allows an AOL member who is online to communicate with another member who is also online at the same time, column 2, lines 23-34].

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Aggarwal using the AOL instant messenger as taught by Maurille.

This modification of the invention enables the system to select an AOL instant messenger because the user would communicate with another member.

Regarding **claim 26-28**, Maurille teaches wherein the proximity detector includes and RFID detector [column 6, lines 23-36]

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerald Gauthier/
Primary Examiner, Art Unit 2614

/GG/
October 15, 2008